

**Saint Paul Planning Commission
City Hall Conference Center
15 Kellogg Boulevard West**

Minutes March 4, 2011

A meeting of the Planning Commission of the City of Saint Paul was held Friday, March 4, 2011, at 8:30 a.m. in the Conference Center of City Hall.

Commissioners Present: Mmes. Halverson, Merrigan, Perrus, Reveal, Thao, Wang, Wencl, Young; and Messrs. Commers, Connolly, Fernandez, Kramer, Ochs, Oliver, Spaulding, Ward, and Wickiser.

Commissioners Absent: Ms. *Porter and Messrs. *Gelgelu, *Nelson, and *Schertler.
*Excused

Also Present: Donna Drummond, Planning Director; Amy Spong, Lucy Thompson, Patricia James, Allan Torstenson, Sarah Zorn, Luis Pereira, Kate Reilly, Josh Williams, Anton Jerve, and Sonja Butler, Department of Planning and Economic Development staff.

I. Approval of minutes February 18, 2011.

The February 18th minutes are not available at this time and will be approved at the March 18th meeting.

II. Chair's Announcements

Chair Commers congratulated Commissioner Kramer for his appointment to Metropolitan Council. Chair Commers announced he has also been appointed to Metropolitan Council.

III. Planning Director's Announcements

Donna Drummond announced that an updated committee list was distributed to the commissioners to put in their handbooks to replace the old version. Also a zoning code supplement was distributed. The supplement includes updated pages based on changes that have been made to the zoning code. Copies are being made of the zoning map panels for the zoning code, which are in color and will be distributed when they are ready.

IV. Zoning Committee

SITE PLAN REVIEW – List of current applications. (*Tom Beach, 651/266-9086*)

Two items to come before the staff Site Plan Review Committee on Tuesday, March 8, 2011: Pedro's Luggage building demolition located at 501 Robert Street, lot will be temporary construction staging for the Penfield Project; and Max It Pawn and other new retail businesses

located at 1891 Suburban Avenue, renovation of former car dealership building, three new buildings and landscaping.

NEW BUSINESS

#11-011-647 Macalester College Campus Boundary – Conditional Use Permit for expansion of Macalester College campus boundary to include 100 Cambridge and vacated alley to the east. 1600 Grand Avenue, NE corner at Macalester. (Josh Williams, 651/266-6659)

MOTION: *Commissioner Kramer moved the Zoning Committee's recommendation to approve the conditional use permit subject to additional conditions. The motion carried unanimously on a voice vote.*

OLD BUSINESS

#11-008-637 Andrew Blessing - Conditional Use Permit for a bed & breakfast with four guest rooms. 325 Dayton Ave, NW corner at Farrington. (Sarah Zorn, 651/266-6570)

MOTION: *Commissioner Kramer moved the Zoning Committee's recommendation to approve the conditional use permit. The motion carried unanimously on a voice vote.*

#11-003-883 SPARC - Conditional Use Permit for coffee shop drive-through with modifications of drive-through lane distance from residential property and required screening. 843 Rice Street, NW corner at Water Street. (Anton Jerve 651/266-6567)

Commissioner Ochs asked if there was a discussion from Public Works traffic and safety regarding the distance for the entrance of the drive-through from the corner of Rice and Atwater.

Anton Jerve, PED staff, stated that it was not brought up as an issue by Public Works. The distance from the intersection will increase, because they are moving the curb cut further away from the intersection. So it does meet the standards for a drive-through use according to the zoning regulations.

MOTION: *Commissioner Kramer moved the Zoning Committee's recommendation to approve the conditional use permit subject to additional conditions. The motion carried unanimously on a voice vote.*

#10-921-993 Greater Frogtown CDC - Re-establishment of nonconforming use as a 4-unit building. 941 Thomas Ave, between Milton and Chatsworth. (Luis Pereira, 651/266-6591)

Note: Commissioner Wencl assumed the Chair for discussion and voting on this case.

Commissioner Kramer stated that the committee recommends denial. The resolution outlines the reasons for denial. He also addressed an issue in a letter received from the Greater Frogtown CDC, which stated that, after the public hearing was closed, Zoning Committee members were approached by an opponent of the proposal and were handed written information on how to make a motion to deny the application. Commissioner Kramer said that he had asked a speaker who

had read testimony during the public hearing to give him his written testimony, and that was the information that the zoning committee received.

MOTION: *Commissioner Kramer moved the Zoning Committee's recommendation to deny the re-establishment of legal nonconforming use as a 4-unit building.*

Commissioner Ward stated that he was also in attendance at the hearing and he concurred with Commissioner Kramer's explanation.

Commissioner Spaulding distributed an alternate set of findings and resolution for the commission to consider in place of the Zoning Committee's recommendation of denial. He stated that these findings represent a workable middle ground between the applicant and concerned neighbors. It has the acceptance of the Frogtown Area CDC, though it was not their first or second choice. It squarely addresses the most central concerns heard from neighbors, many of whom indicated in testimony that they would be willing to accept a 3-unit building on the site. The most central issue in the case has been one of density. This is a property that was used as a 4-plex four years ago and has up to about 8,000 square feet of usable space on 2 ½ city lots. The initial proposal to the Zoning Committee from the applicant called for 4-units to be re-established in a configuration that could house up to twenty-four (24) people under the City's fire code. A subsequent proposal from the applicant presented at the Zoning Committee meeting last week called for 4-units again to be re-established but in a configuration to house up to only eighteen (18) people under the fire code.

Commissioner Spaulding stated that he would move his recommendation if the Zoning Committee's recommendation is voted on and fails. Commissioner Spaulding read his alternative findings and resolution into the record.

Commissioner Kramer clarified the motion from the Zoning Committee is for denial. Those in favor of denying the application would vote in favor of the Zoning Committee's motion. Because the Zoning Committee's report is a report from a standing committee the city attorney advises against a substitute motion or an amendment. So, to consider other alternatives, the recommended course is to first vote on the Zoning Committee's recommendation and then entertain alternatives if that motion fails.

Commissioner Young asked for clarification as far as economic feasibility of a duplex and what the zoning resolution is stating.

Commissioner Kramer said the subject property was purchased at \$44,000.00, and there was some feeling that the structure could, at that purchase price, have been rehabilitated to a more conforming use.

Commissioner Young asked how many people would be permitted to live in the building if it were a duplex.

Luis Pereira, PED staff said that the zoning code permits up to four unrelated adults to live in a unit. A traditional family (related by blood, marriage and so on and their children) can be more than four per unit. Beyond that, the fire code limits the total number of people in a unit. There are certain requirements about square footage per occupant, per total unit as well as per bedroom in the fire code.

Mr. Pereira said that a lot of issues were discussed throughout the two Zoning Committee meetings. There was concern in the neighborhood about the total number of people in the building. The committee explored what the appropriate number of units could be and both issues were considered. In the end the city attorney advised the committee that they did have the ability to regulate the number of units at the property, but they could not directly put a cap on occupancy - that is something the fire code addresses.

Commissioner Oliver spoke against the committee recommendation. His position is that plans to provide affordable housing in the city are paramount. Trying to force a duplex in this building to be offered at an affordable rent is artificial. Three-bedroom units are hard to come by, especially with affordable rent. So providing three or four of these is a critical thing to do. He advised against being carried away by worst-case scenarios. His other concern relates to sustainability in the sense of making smart use of the space that is in the building. Making use of the existing space is either to finish the build out and have very large duplexes or making the sizes fit the market, about 2,000 square feet, and then wasting a lot of space. Neither is a good option. He would support 3 units or even 4 units.

Commissioner Wickiser said part of his reason for denial was to encourage the community to come in with a unified position; because that is what will help this neighborhood the most in the long run.

Commissioner Fernandez offered two additional findings, findings for the resolution. For finding #4, the proposed use is not consistent with the Comprehensive Plan. Policy 1.1 of the Land Use Chapter of the Comprehensive Plan states that within established neighborhoods the density goals are residential development of 3-20 dwellings per acre. Based on figure LU-A and LU-B, 941-943 Thomas Avenue is clearly defined as a low density residential area within an established neighborhood. Finding #5, regarding the petition that was submitted, the petition of two-thirds of the property owners within 100 feet of the property was submitted, the spirit of the petition has been undermined as made evident by the majority of signers revoking their support and testifying that they were misled as to the intended use of the property. This coupled with the resolution is why he is supporting the Zoning Committee's recommendation of denial for this project.

Upon a question by Commissioner Reveal, Commissioner Kramer said that the sufficiency of the petition takes place at the time that the petition is submitted. It was sufficient at the time it was submitted. With nonconforming use permits there is not an opportunity for persons to withdraw their names as there is on rezoning petitions.

Mr. Pereira addressed the question of consistency with the Comprehensive Plan, stating that the finding did not change, other than one word, from the staff report to the denial resolution. It is not necessary to find the proposal inconsistent with the Comprehensive Plan, since only one negative finding is needed in order to deny an application.

Commissioner Spaulding said that he believes that 3-units would be in conformance with the Comprehensive Plan.

Commissioner Connolly agreed with Commissioner Oliver and said he would vote for 4-units, because, in his experience, there is a need for three and four or larger bedroom units to be affordable for families.

Upon a question from Commissioner Spaulding, Mr. Pereira said that the applicant is willing to accept three or four units, as their letter indicates, but their current estimates still are that there would be a loss for either a duplex or triplex over the 15-years.

Commissioner Thao disagreed with the findings about the use not being consistent with the surrounding land uses. The building had long been operating as 4-units; therefore the whole time it would have been inconsistent. She also recognized the neighbors' concerns about density in the neighborhood. She agreed that there is a need for affordability in this area, particularly for large families.

Commissioner Oliver explained that he is not basing his judgment strictly on the cash flow estimates provided by GFCDC. The numbers that he is focused on are the rents that can be obtained for each size unit. There is a sharp increase from a two bedroom unit to a three bedroom unit, but above three bedrooms it flattens out. There is not much more return on investment for adding bedrooms. Looking at the materials from the Zoning Committee, there is about a two hundred dollar (\$200.00) a month increase between two and three bedrooms and only a sixty dollar (\$60.00) increase from three to four bedrooms. As a duplex, only two rents can be charged and, regardless of the size, once you get over three bedrooms nothing much more can be gained. In his opinion having a vacant building in the neighborhood is worse than having one that is a little full.

Commissioner Kramer said that the financial information is interesting both from a pro and con point of view, but the findings that need to be made are for the re-establishment of nonconforming use, and item 7 outlines five reasons, and one of the reasons is the consistency with the Comprehensive Plan.

Chair Wencil called for a roll call vote with each commissioner voting to approve the zoning committee recommendation stating the reasons for their vote. Chair Wencil stated that it would be sufficient to simply say that the vote is based on the findings as stated in the resolution.

ROLL CALL VOTE: *The motion to deny the conditional use permit failed on a roll call vote of 14-2 (Fernandez, Wickiser) with 1 abstention (Commers).*

Commissioner Spaulding moved approval of the application for three units based on the alternative findings, recommendation, and conditions that he previously read into the record and distributed. Commissioner Merrigan seconded the motion..

On a question from Commissioner Perrus, Commissioner Spaulding explained that his motion is a compromise. The most significant change that this makes is a change in the number of units in the structure from 4 units to 3. The number of people housed under the fire code at maximum changes from 24 in the first application to 18. In reviewing the testimony, it was clear that density was the central issue, and he heard that there was a willingness to accept 3-units. He noted that the Greater Frogtown CDC would be more open to a triplex or fewer bedrooms. His motion incorporates all the key concerns brought up by the neighborhood.

Commissioner Fernandez stated that the residents on that block were not in favor of this.

Commissioner Reveal stated that she is comfortable moving forward because they are following the established process, with committees bringing recommendations to the Commission and the Commission as whole considering those recommendations. She also stated her support of affordable housing options, if the circumstances generally conform and permit. There is definitely a need for housing for families, through reuse of abandoned property or reuse of current affordable housing.

Commissioner Kramer said the approach that Commissioner Spaulding has suggested is the appropriate approach. The proposal for 3-units is consistent with the zoning code, which supports transition of nonconforming uses into conformity. Reducing the units in the structure by one unit moves it into closer conformance with the code. However, this is not the end of the process, if either the CDC or the community is dissatisfied, they can appeal this decision to the City Council.

Commissioner Oliver moved to amend section 7 and propose the findings that were in the original staff report from January 14, 2011. Commissioner Ward seconded the motion.

Commissioner Connolly spoke against the amendment in light of the work that has gone into the compromise.

Commissioner Spaulding spoke against that amendment. He supports finding middle ground, and he sees just enough tentative acceptances that it might work.

Commissioner Fernandez also stated his opposition to 4 units.

Commissioner Merrigan spoke in opposition to the amendment.

MOTION: *Commissioner Ward called the question. The motion to amend failed on a voice vote, with Commissioner Commers abstaining.*

MOTION: *Commissioner Reveal called the question on the main motion approving three units with conditions. The motion carried on a voice vote with Commissioner Commers abstaining.*

Commissioner Kramer announced that the Zoning Committee meeting for Thursday, March 10, 2011 has been cancelled.

V. Neighborhood Planning Committee

Proposed Designation of the Jacob Schmidt Brewery Company Historic District as a Saint Paul Heritage Preservation site – Approve resolution recommending approval to Mayor and City Council. (Amy Spong, 651/266-6714)

Commissioner Oliver asked what uses are being planned for this property, and how much is being limited by this designation?

Amy Spong, HPC staff, said that historic designation does not restrict an owner's right to use or sell his or her property. It's zoned TN2 which is separate from the designation process.

Commissioner Oliver asked whether any thought has been put into what practically might be done with 54 acres here. The designation is asking that buildings remain substantially intact and

is wondering what the practical effect of this is. He does not know if it is a good idea to designate the entire 54 acres.

Ms. Spong said that this district has been analyzed significantly for the last several years and a determination of eligibility for the National Register came in 2005. There are some potential developers who are hoping to seek federal and state historic tax credits for certain parcels within the district. If a particular owner wants tax credits for just one of the buildings within the district, you can't just designate that building as they come together as a collection of buildings that together contribute to the significance of the district.

Commissioner Wickiser said the real issue is that if we don't designate, the developers that have been identified will no longer be at the table.

Commissioner Ward added that this is only an attempt to help monetize this project by seeking historic tax credits and not to hinder any additional development or use of the entire 54 acres.

Ms. Spong said that the consultant who wrote the nomination is Paul Clifford Larson. He has done the most research of anybody on this district. He has been in some of the areas that she has not been able to go into and he has seen some of the drawings that others have not seen. There is a tremendous amount of research and work that he put into it.

Commissioner Wencl moved on behalf of the Neighborhood Planning Committee to recommend approval of the resolution and forward to the Mayor and City Council. The motion carried unanimously on a voice vote.

Tobacco Shop Zoning Study – Approve resolution recommending zoning text amendments to Mayor and City Council. (Patricia James, 651/266-6639)

Commissioner Spaulding said that the temporary moratorium is about to expire so the Planning Commission is compelled to act on this today in order to facilitate the City Council's adoption of something. He is voting yes mainly to give it to the City Council to work out. He thinks there is a potential here that he is not completely comfortable with. What's proposed would open up a potentially significant loop hole to the work that the City Council has done to create a smoking ban.

Commissioner Oliver acknowledged Commissioner Spaulding comment and said there is a loop hole and potentially a great market out there for somebody to have a smoking bar, but you can't smoke indoors anywhere else.

Patricia James, PED staff, explained that in developing this proposal they worked closely with the staff in the licensing office and they are working on possible licensing restrictions for these types of uses. The zoning amendments just set up the legal framework for licensing code changes.

Commissioner Wencl moved on behalf of the Neighborhood Planning Committee to recommend approval of the resolution and forward to the Mayor and City Council. The motion carried unanimously on a voice vote.

Sign Regulation Amendments – Approve resolution recommending zoning text amendments to Mayor and City Council. (Kate Reilly, 651/266-6618, and Allan Torstenson, 651/266-6579).

Commissioner Perrus said that at the committee meeting they talked about the final staff recommendation, which was for no changes to sign regulation regarding illumination or interior window signs. The committee added in a provision that would regulate illumination in residentially-zoned districts. The final page of the resolution reflects Commissioner Spaulding's efforts to provide some alternatives for City Council discussion.

Commissioner Spaulding noted that the committee retained an option that wasn't selected for final recommendation on a couple of different issues and recommended forwarding these options to the City Council if they decided to pursue changes to the regulations. The places where the committee provided alternate language for possible changes concerned regulating interior dynamic display signs and illumination levels in business districts.

Commissioner Wencil moved on behalf of the Neighborhood Planning Committee to recommend approval of the resolution and forward to the Mayor and City Council. The motion carried unanimously on a voice vote.

Commissioner Wencil announced the items on the agenda for the next Neighborhood Committee meeting on Wednesday, March 9, 2011.

VI. Comprehensive Planning Committee

Central Corridor/Traditional Neighborhood Zoning Study – Approve resolution recommending zoning text amendments and zoning map revisions to the Mayor and City Council. (*Donna Drummond, 651/266-6556, and Sarah Zorn, 651/266-6570*)

Donna Drummond, Planning Director, highlighted the changes that the committee made in response to the public hearing testimony. The primary reason for the study has been to review whether zoning along the Central Corridor would facilitate the kind of development envisioned in the *Central Corridor Development Strategy* and station area plans that have been adopted as part of the Comprehensive Plan. The secondary study purpose was to evaluate the City's Traditional Neighborhood zoning districts and determine if any updates or tweaks were needed to the regulations for these districts, which were first added to the code in 2004. Ms. Drummond said this proposal would create a new Traditional Neighborhood 4 district. Currently there are TN 1, and 2 & 3 districts and this would add a TN4 category that would allow more height and density where appropriate. The area proposed for rezoning is focused on the "area of change" where redevelopment in response to the LRT would be encouraged. The proposal is to rezone portions of University Avenue to TN2 through TN4 with some industrial zoning maintained in the West Midway area. New zoning regulations will primarily affect property owners who are planning for new building construction, and existing buildings and businesses can remain indefinitely. Change will happen over a long period of time as property owners decide to reinvest in their property or sell for redevelopment.

Ms. Drummond explained the zoning study process that occurred over the last summer and fall. The zoning study recommendations that were the subject of the Planning Commission's two public hearings in November and December have been revised based on the committee's discussions. Ms. Drummond talked about the major topics that were brought up during the two public hearings. She showed a slide on each one of them highlighting how the committee

responded. The major public hearing issues were auto related uses, loss of industrially zoned land, nonconforming uses created by the recommendations, variances, concerns expressed by the Healthy Corridor for All initiative, elimination of minimum parking requirements, use of shared alleys by residences and businesses, travel demand management requirements for downtown, and requests related to the zoning of individual properties. They also had four nationally-known consultants who reviewed and commented on the public hearing draft and there were some changes that the committee recommended as a result of those comments.

Commissioner Fernandez asked about any planned improvements for shared-use alleys along the corridor.

Ms. Drummond said that the City Council has allocated \$350,000 initially for alley improvements along University Avenue. Anton Jerve, PED staff, has been working with staff from Public Works to evaluate existing alleys and where that money might be spent to improve alleys initially. There also was \$100,000 allocated for residential buffering to start testing out some ways to better buffer residential uses from these alleys.

Commissioner Perrus asked about the variance issue and said there is hope the state legislature will approve new state statute language that will again give cities the flexibility to approve variances. She wanted to know if that effort fails and a bill isn't approved this year, will the City consider greater use of conditional use permits to facilitate flexibility?

Ms. Drummond said that could potentially have a huge impact on the whole zoning code and how the City handles all of its regulations. If that actually happened they would have to step back and take a look at what the prospects are for future legislation that would address it or if there is a need to look at the whole zoning code and change the approach of how zoning regulation is handled in the city.

MOTION: *Merrigan moved on behalf of the Comprehensive Planning Committee to recommend approval of the resolution and forward to the Mayor and City Council. The motion carried unanimously on a voice vote.*

The proposed rezoning of the properties at 2505 University and 381-383 University Avenue were removed from the main motion. These were approved as a separate motion by Commissioner Merrigan and seconded by Commissioner Ward. The motion carried on a voice vote of 15-0 with 2 abstentions (Commers and Thao).

VII. Transportation Committee

Commissioner Spaulding announced the items on the agenda for the next Transportation Committee meeting on Monday, March 7, 2011.

VIII. Communications Committee

Commissioner Thao announced that the 2010 Planning Commission Annual Report is now available and will be mailed out and posted on the web. She also thanked Jessica Rosenfeld for a great job and fellow committee members for their hard work on this too.

IX. Task Force Reports

Commissioner Wencil announced that the Smith Avenue Task Force had its final meeting and open house on February 22nd and they will be bringing that to the Neighborhood Committee in the near future.

Commissioner Wencil announced that she will be Co-chairing the Near Eastside Task Force and their first meeting is on Tuesday, March 29, 2011.

Commissioner Wickiser reported that the Cesar Chavez Small Area Plan Task Force is in the focus group stage of soliciting public input and they are having an open house at Neighborhood House on Tuesday, March 8, 2011 from 6:00 – 8:00 p.m.

X. Old Business

None.

XI. New Business

None.

XII. Adjournment

Meeting adjourned at 10:45 a.m.

Recorded and prepared by
Sonja Butler, Planning Commission Secretary
Planning and Economic Development Department,
City of Saint Paul

Respectfully submitted,



Donna Drummond
Planning Director

Approved

4-1-11
(Date)



Anthony Fernandez
Secretary of the Planning Commission